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III

NATIONAL INTELLIGENCE REORGANIZATION AND REFORM ACT OF 1977

TITLE III -- NATIONAL SECURITY AGENCY ACT OF 1977

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Title

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That this Act may be cited as the
"Intelligence Reorganization Act of 1977".

TITLE III--NATIONAL SECURITY AGENCY

SHORT TITLE

Sec. 301. This title may be cited as the "National Security
Agency Act of 1977".

STATEMENT OF PURPOSES

Sec. 302. It is the purpose of this Act to--

(1) authorize, and provide guidance for, those signals intelligence and communications security activities necessary for the conduct of the foreign relations or the protection of the national security of the United States;

(2) insure that such activities are properly directed, regulated, coordinated and administered, and are organized and conducted so as to meet, efficiently and effectively, the intelligence and security requirements of the United States;

(3) establish by law an agency to be known as the National Security Agency; provide for the appointment of a director of that Agency and confer upon him the authorities necessary to fulfill the duties and responsibilities prescribed in this title and make him accountable to the President, the Congress, and the people of the United States; and

(4) establish effective oversight so that the signals intelligence activities and communications security activities of the United States are conducted so as not to infringe upon or violate the rights guaranteed or protected by the Constitution or laws of the United States and so as to protect the privacy of United States communications.

DEFINITIONS

Sec. 303. As used in this title--

(1) The term "communications intelligence" means technical and intelligence information derived from foreign communications by other than the intended recipients.

(2) The term "electronics intelligence" means technical and intelligence information derived from foreign, non-communications, electromagnetic radiations emanating from other than nuclear detonations or radioactive sources.

(3) The term "foreign instrumentation signals intelligence" means information derived from the collection and processing of foreign telemetry, beaconry, non-imagery infrared and coherent light signals.

(4) The term "signals intelligence" means a category of intelligence information comprising all communications intelligence, electronics intelligence, and foreign instrumentation signals intelligence, either individually or in combination.

(5) The term "signals intelligence activities" means those activities conducted for the purpose of producing signals intelligence.

(6) The term "foreign communication" means any communication which has at least one terminal outside the territorial United States or a communications system or a portion of such a system used or operational within the United States by a foreign power. Such term does not include press, propaganda, or public broadcasts.

(7) The term "non-communications emanations" means radar signals, telemetry, beaconry, and other foreign instrumentation signals.

(8) The terms "United States signals intelligence system" and "United States SIGINT system" mean an entity that is comprised of (A) the National Security Agency (including assigned military personnel); (B) those elements of the military departments and the Central Intelligence Agency performing signals intelligence activities; (C) those elements of any other

department or agency which may from time to time be authorized by the National Security Council to perform signals intelligence activities during the time when such elements are authorized to perform such activities.

(9) The terms "code", "cipher", and "cryptographic system" include, in addition to their usual meanings, any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications.

(10) The term "communications security" means the protection resulting from any measures taken to deny unauthorized persons information of value which might be derived from the telecommunications of the United States, or to insure the authenticity of such telecommunications. Such term includes cryptosecurity, transmission security, emission security, and physical security of communications security materials and information.

(11) The term "cryptosecurity" means any procedure or method relating to the provision of technically sound cryptographic systems and their proper use.

(12) The term "transmission security" means any procedure or method designed to protect the transmission of information or material from interception and exploitation by any means other than analysis of cryptographic systems.

(13) The term "emission security" means any procedure or method used to deny unauthorized persons any information of value that might otherwise be derived from the interception and analysis of compromising emanations from any cryptoequipment or telecommunications system.

(14) The term "physical security" means any physical procedure or method used to safeguard signals intelligence and communications security equipment, material, or documents from access or observation by unauthorized persons.

(15) The term "cryptology" encompasses both signals intelligence and communications security.

(16) The term "unauthorized person" means any person not authorized access to signals intelligence or communications security information by the President or by the head of any department or agency of the Government which has been expressly designated by the President to engage in cryptologic activities for the United States.

(17) The term "cryptologic activities" means activities involving cryptology.

(18) The term "United States person" means (A) a citizen of the United States, or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), (B) an unincorporated association a substantial number of whose members are citizens of the United States or aliens lawfully admitted for permanent residence, or (C) a corporation which is incorporated in the United States, but not including any corporation which is an agent of a foreign power (as defined in the Foreign Intelligence Surveillance Act).

(19) The terms "departments and agencies" and "department or agency" mean any department, agency, office, bureau, independent establishment, wholly owned corporation, or other entity of the Government of the United States.

(20) The term "Attorney General" means the Attorney General of the United States.

(21) The term "committees of the Congress" means any committee of the Senate or the House of Representatives or any joint committee of the Congress.

ESTABLISHMENT OF NATIONAL SECURITY AGENCY; FUNCTION

Sec. 304. (a) There is established within the Department of Defense an agency to be known as the National Security Agency (hereinafter in this title referred to as the "Agency").

(b) It shall be the function of the Agency to conduct signals intelligence activities and communications security activities for the Government of the United States. It shall also be the function of the Agency to provide an effective, unified organization for the conduct and control of the signals intelligence activities and the communications security activities of the United States and for formulating operational plans, policies and procedures for such activities.

(c) The functions of the Agency shall be carried out under the direct supervision and control of the Secretary of Defense and shall be accomplished under the provisions of this Act and in conformity with the Constitution and laws of the United States. In exercising supervision and control over the Agency, the Secretary of Defense shall comply with policy established by the National Security Council and with intelligence objectives, requirements, and priorities promulgated by the Director of National Intelligence.

DIRECTOR; DEPUTY DIRECTOR

Sec. 305. (a)(1) There shall be at the head of the Agency a Director of the National Security Agency (hereinafter in this title referred to as the "Director"). The Director shall be appointed by the President, by and with the advice and consent of the Senate from among the commissioned officers of the armed forces (active or retired), or from among individuals with cryptologic experience in civilian life. If the Director is a military officer, he shall be entitled to not less than the grade of Lieutenant General or Vice Admiral while so serving. The Director shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(2) The Director shall serve at the pleasure of the President but may not serve as Director for a period of more than six years unless reappointed by the President, by and with the advice and consent of the Senate. No person who has served as Director for a period of less than six years and is subsequently appointed or reappointed may serve as Director under such appointment or reappointment for a term of more than six years. In no event may any person serve as Director for more than a total of twelve years.

(b) (1) There shall be a Deputy Director of the National Security Agency (hereinafter in this title referred to as the "Deputy Director") appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed forces (active or retired) or from among career civilian employees with cryptologic experience. If the Deputy Director is a military officer he shall be entitled to the grade of Major General or Rear Admiral while so serving. The Deputy Director shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. At no time may the two positions of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces (active or

may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving as Director or Deputy Director, continue to hold rank and grade no lower than that in which he served at the time of his appointment. The Director and Deputy Director, whether civilian or military, shall be compensated, while so serving, only from funds appropriated to the Director.

(3) The grade of any such commissioned officer shall, during the period in which such commissioned officer occupies the office of Director or Deputy Director, be in addition to the numbers and percentages otherwise authorized and appropriated for the military department of which he is a member.

(d) The Deputy Director shall act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director. The Secretary of Defense shall provide by regulation what officer or employee of the Department of Defense shall act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director whenever there is no Deputy Director.

(e) Any person holding the office of Director or Deputy Director of the National Security Agency as such agency existed on the day before the effective date of this title may continue to serve in the corresponding office established by this title until such person or his successor is appointed as provided in this title, but in no event for a period exceeding 30 days after such effective date. In computing the twelve-year limitation prescribed by subsections (a)(2) and (b)(2) of this section, any service by a person as Director or Deputy Director of the National Security Agency as such agency existed on the day before the effective date of this title shall not be included.

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retired); however, both positions may be occupied simultaneously by citizens of the United States who are not commissioned officers of the armed forces whether in active or retired status.

(2) The Deputy Director shall serve at the pleasure of the President, but may not serve for more than six years unless reappointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall assist the Director in carrying out his functions under this Act. In no event may any person serve as Deputy Director for more than twelve years. In no event may any person serve in either or both positions for more than a total of twelve years.

(c) (1) A commissioned officer of the armed forces while serving as Director or Deputy Director--

(A) shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of Defense, the military departments, or the armed forces of the United States or any component thereof; and

(b) shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise as Director or Deputy Director) with respect to the armed forces or any component thereof, the Department of Defense, the military departments, or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in subsections (a) and (b) of this section, the appointment to the office of Director or Deputy Director of a commissioned officer of the armed forces, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he

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DUTIES OF THE DIRECTOR

Sec. 306. (a) It shall be the duty of the Director to--

(1) serve as the principal signals intelligence and communications security officer of the Government;

(2) insure that the signals intelligence activities and communications security activities of the United States are conducted in conformity with the provisions of this Act and with the Constitution and laws of the United States, and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States;

(3) direct all cryptologic activities of the Agency;

(4) meet the signals intelligence requirements of the United States Government by maintaining and managing an effective and unified United States SIGINT system;

(5) control all the signals intelligence collection, processing, production, and dissemination activities of the United States;

(6) manage signals intelligence resources, personnel, and programs;

(7) produce signals intelligence for departments and agencies, including operational commanders of the armed forces of the United States authorized to receive such intelligence, in accordance with policies, objectives, requirements, and priorities prescribed by the Director of National Intelligence;

(8) serve as the central communications security authority of the United States Government and fulfill the communications security requirements of all departments and agencies; based upon guidance from the Communications Security Committee established pursuant to section 122 of this Act

(9) consolidate, as he deems necessary, the performance of the signals intelligence and the communications security functions of the United States to the maximum extent feasible for the purpose of achieving overall efficiency, economy, and effectiveness;

(10) conduct such research and development in support of signals intelligence, signals intelligence-related, and

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communication security activities, as may be necessary to meet the needs of departments and agencies authorized to receive signals intelligence or which require communications security assistance, or delegate responsibility for such research and development to other departments or agencies, and review research and development conducted by any department or agency in support of signals intelligence, signals intelligence-related, and communications security activities;

(11) determine the manpower resources and administrative support needed by the Agency to conduct effectively its signals intelligence activities and communications security activities and, in accordance with guidance from the Director of National Intelligence, enter into agreements with other departments and agencies for the provision of such manpower resources and administrative support;

(12) prepare a proposed consolidated United States signals intelligence budget for each fiscal year based upon program and budget guidance from the Director of National Intelligence and submit each such proposed budget to the Director of National Intelligence and the Secretary of Defense at such time and in such manner as the Director of National Intelligence may specify;

(13) prepare a proposed consolidated communications security budget for each fiscal year based upon program and budget guidance from the Secretary of Defense and submit each such proposed budget to the Director of National Intelligence and to the Secretary of Defense at such time and in such manner as the Secretary of Defense may specify;

(14) review all proposed budgets and resource allocations for the signals intelligence-related activities of the armed forces of the United States, and advise the Director of National Intelligence and the Secretary of Defense on such budget and resource allocations;

(15) review all proposed budgets and resource allocations for the communications security activities of other departments and agencies and advise the Secretary of Defense on such budgets and resource allocations;

(16) provide appropriate mechanisms for the control of all funds made available to the Agency to carry out its authorized activities;

(17) establish, in consultation with the Director of National Intelligence, and in accordance with section 3673(c) of the Revised Statutes (31 U.S.C. 665(c)), rules of obligation for funds appropriated to the Agency;

(18) reprogram, subject to the approval of the Director of National Intelligence and as provided in annual authorization or appropriations Acts, funds made available to the Agency to carry out signals intelligence and signals intelligence-related activities;

(19) reprogram, subject to the approval of the Secretary of Defense and as provided in annual authorization or appropriations Acts, funds made available to the Agency to carry out communications security activities;

(20) prescribe, in accordance with policy guidance furnished by the Director of National Intelligence, security rules, regulations, procedures, and standards for the protection of information relating to the signals intelligence activities, communications security activities, and signals intelligence and communications security facilities of the United States, including security rules, regulations, procedures, and standards with respect to the acquisition, handling, transportation, transmission, processing, and reporting of such information;

(21) conduct such activities, including monitoring and supervisory control, as are necessary to insure compliance with the rules, regulations, procedures, and standards prescribed by the Director under clause (20), but only to the extent that such activities can be conducted in accordance with this Act, and other laws of the United

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States, and policy guidance furnished by the Attorney General.

(22) conduct such activities as are necessary to protect the security of the Agency's installations, activities, information and personnel, but only to the extent that such activities can be conducted consistent with the provisions of this Act and other laws of the United States;

(23) conduct such cryptologic liaison with foreign governmental agencies as may be directed by the Director of National Intelligence;

(24) provide for such communications support and facilities as may be necessary to (A) conduct signals intelligence activities in a timely and secure manner, and (B) insure the expeditious handling of critical information for the United States Government;

(25) prescribe all codes, ciphers and cryptographic systems and techniques, other than secret writing systems, to be used in any manner by the United States Government and provide for the centralized production and control of codes, ciphers and cryptographic systems and materials to be used by the United States Government;

based upon guidance from the Communications Security Committee and the Attorney General,
(26) evaluate the vulnerability of the United States communications to exploitation by unintended recipients and, based upon guidance from the Communications Security Committee, provide the users of such telecommunications with such information and material as will minimize the vulnerability of such telecommunications;

based upon guidance from the Communications Security Committee
(27) institute appropriate measures to assure the confidentiality of United States telecommunications against interception and exploitation by unintended recipients;

(28) plan for, task, and process data from all special signals intelligence collection programs of the Department of Defense relating to those matters within the jurisdiction of the Agency;

(29) insure that the Agency will receive, in a timely fashion, all signals intelligence data collected by any entity of the Intelligence Community;

(30) develop plans to increase the responsiveness of the United States SIGINT system to the needs of the Secretary of Defense in time of war or other national emergency, including the delegation of such tasking authority as may be appropriate;

(31) provide the Director of National Intelligence and the National Security Council with such information as they may request on the activities of the Agency and on the signals intelligence activities and the communications security activities of the United States; and

(32) issue such additional rules, regulations, directives, and procedures as may be necessary to implement this title.

(b) To assist the Director in the fulfillment of his responsibilities under this section, the heads of all departments and agencies shall furnish him with such data as he may require and the Director shall take appropriate steps to maintain the confidentiality of such information.

(c) (1) The Director is authorized to establish such committees or boards, composed of officers and employees of the United States, as may be necessary to carry out effectively the provisions of this title.

(2) The Director is also authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this title. The provisions of the Federal Advisory Committee Act (36 Stat. 770) shall apply with respect to any advisory committee established by the Director under authority of this section except that the Director may waive the application of any or all of the provisions of such Act when the Director deems such action necessary to the successful performance of the functions of the Agency or to protect the security of the activities of the Agency. Any waiver exercised by the

Director under this subsection shall be reported to the committees of the Congress having jurisdiction over the Agency and the names of all persons appointed to serve on such advisory committees shall be reported to such committees of the Congress.

GENERAL COUNSEL; INSPECTOR GENERAL; AND OTHER OFFICES

Sec. 307. (a) There shall be a General Counsel of the Agency appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall serve as the principal legal advisor to the Director and shall have the responsibility for and the authority to--

- (1) review all activities of the Agency;
- (2) advise the Director on whether such activities are in conformity with the laws of the United States, executive orders, presidential directives and memoranda, and the rules, regulations, directives, policies, and procedures governing the Agency;
- (3) review all proposed rules, regulations, directives, policies, and procedures of the Agency, including but not limited to any rule or regulation proposed to implement the provisions of this Act, to ensure that any such rule or regulation is in conformity with the laws of the United States, executive orders, and presidential directives and memoranda;
- (4) report to the Intelligence Oversight Board, the Director, and the Director of National Intelligence, in a timely manner, on any activities coming to his attention that raise questions of legality or propriety, his findings concerning such activities, and on actions taken with respect to the Intelligence Oversight Board's findings concerning such activities;
- (5) provide to the Intelligence Oversight Board any information requested concerning the legality or propriety of any activity of the Agency;
- (6) formulate practices and procedures for discovering and reporting to the Intelligence Oversight Board, the Director of National Intelligence, and the Director intelligence activities that raise questions of legality or propriety; and

(7) report to the Intelligence Oversight Board on any occasion when he is directed by the Director not to report to such board on any activity of the Agency.

(c) There shall be an Inspector General of the Agency appointed by the Director. The Inspector General shall have the responsibility and the authority to--

(1) investigate all activities of the Agency to determine in what respects the Agency may more effectively perform its lawful functions;

(2) advise the Director and the General Counsel of the Agency of his findings regarding such activities;

(3) report to the Intelligence Oversight Board, the Director of National Intelligence, the Director, and the General Counsel of the Agency, in a timely manner, on any activities coming to his attention that raise questions of legality or propriety, his findings concerning such activities, and on actions taken with respect to the Intelligence Oversight Board's findings concerning such activities;

(4) provide to the Intelligence Oversight Board any information requested concerning the legality or propriety of any activity of the Agency;

(5) formulate practices and procedures for discovering and reporting to the Intelligence Oversight Board, the Director of National Intelligence, and the Director, intelligence activities that raise questions of legality or propriety;

(6) report to the Intelligence Oversight Board on any occasion when he is directed by the Director not to report to such board on any activity of the Agency;

(7) conduct such other investigations as the Director deems necessary and appropriate subject to the provisions of this Act; and

(c) perform such other duties as the Director may prescribe.

(c) Any person holding the office of General Counsel of the National Security Agency as such agency existed on the day before the effective date of this title may continue to serve in the corresponding office established by this title until such person or his successor is appointed as provided in this title, but in no event for a period exceeding 30 days after such effective date.

(d) Other executive schedule positions within the Agency in addition to those of Director, Deputy Director, General Counsel, and Inspector General and any positions in the grades of GS-16, GS-17, and GS-18 other than those transferred to the Agency under this Act shall be as authorized by law.

(e) Section 5316 of title 5, United States Code, is amended by adding at the end thereof:

"(142) General Counsel, National Security Agency."

"(143) Inspector General, National Security Agency.".

GENERAL AUTHORITIES OF THE AGENCY

Sec. 306. (a) In carrying out its functions under this Act, the Agency is authorized to--

(1) transfer to and receive from other departments and agencies such sums of money as may be approved by the Director of National Intelligence and the Director of the Office of Management and Budget for the sole purpose of carrying out functions authorized by this title;

(2) exchange funds without regard to the provisions of section 3651 of the Revised Statutes (31 U.S.C. 543);

(3) reimburse other departments and agencies of the Government for personnel assigned or loaned to the Agency and services furnished to the Agency;

(4) utilize couriers and guards carrying firearms when such couriers and guards are designated by the Director and engaged in transporting classified or sensitive documents or materials affecting the national security;

(5) rent any premises necessary to carry out any function of the Agency authorized under this Act, and make alterations, improvements, and repairs to premises of the Agency without regard to any limitation prescribed by law if the Director (A) certifies to the Director of National Intelligence that a waiver of the limitation otherwise applicable to the renting, alternation, improvement, or repair, as the case may be, of premises is necessary to the successful performance of the Agency's functions or the security of its activities, and (B) promptly notifies the committees of Congress having jurisdiction over the Agency of the waiver and of the reasons for exercising such waiver;

(6) appoint such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, and fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General

Schedule pay rates, but at rates not in excess of the rate authorized for GS-18 by section 5332 of such title.

(b) Notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 629) or any provision of law enacted after the effective date of this title, unless such subsequently enacted provision expressly cites this subsection, any department or agency may transfer to or receive from the Agency any sum of money approved by the Director of National Intelligence and the Director of the Office of Management and Budget for use in carrying out any function authorized by this title.

(c) Notwithstanding any other provision of law, any department or agency is authorized to assign or loan to the Agency any officer or employee of such department or agency to assist the Agency in carrying out any function of the Agency authorized by this title. In any case in which any officer or employee of another department or agency is assigned or loaned to the Agency and the assignment or loan of such officer or employee would be prohibited except for this subsection, the Agency shall report the details of such assignment or loan to the appropriate committees of the Congress and shall continue to report thereon to such committees at least once every 90 days so long as such assignment or loan to the Agency continues.

(d) The Agency may continue to use the seal of office used by the Agency prior to the effective date of this title and judicial notice shall be taken of such seal.

PROCUREMENT AUTHORITY

Sec. 309. The Agency is authorized to procure such services, equipment, and facilities as may be necessary to carry out its functions under this title. The provisions of chapters 137 and 139 of title 10, United States Code, relating to the procurement of property, services, and research and development activities, shall apply to the procurement of property and research and development activities by the Agency under this title in the same manner and to the same extent such chapters apply to the procurement of property, services, and research and development activities by the agencies named in section 2302(a) of chapter 137 of title 10, except that the Director is authorized, with the approval of the Secretary of Defense and the Director of National Intelligence, to waive the application of any or all of the provisions of chapters 137 and 139 of title 10 when the Director deems such action necessary to the successful performance of any function of the Agency or to protect the security of activities of the Agency. Any waiver exercised by the Director under this section shall be reported to the committees of the Congress having jurisdiction over the Agency together with the reasons for exercising such waiver.

AUTHORIZATIONS FOR APPROPRIATIONS AND EXPENDITURES

Sec. 310. (a) Notwithstanding any other provision of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out the lawful functions of the Agency, including--

(1) supplies, equipment, and personnel and contractual services otherwise authorized by law or regulation, when approved by the Director;

(2) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; lease of buildings to the Government without regard to the limitations prescribed in section 322 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932 (40 U.S.C. 278a); health-service program as authorized by section 7901 or title 5, United States Code; rental of news-reporting services; purchase or rental and operation of photographic, reproduction, cryptographic, duplication and printing machines, and all manners of equipment and devices necessary to performance of the cryptologic mission, including telegraph and teletype equipment; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, aircraft, and vessels of all kinds; subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance, and cleaning of firearms, including purchase, storage, and

maintenance of ammunition; subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency; association and library dues; settlement and payment of claims of civilian and military personnel, as prescribed in Agency regulations consistent with the terms and conditions by which claims are settled and paid under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240-243); acquisition, construction and alteration of buildings and facilities without regard to the Public Buildings Act of 1959 (40 U.S.C. 601-615); repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances; and expenses of arrangements with foreign countries for cryptologic support as specifically approved by the Director of National Intelligence but no funds may be expended for activities which have not been authorized by a law enacted during the same or immediately preceding fiscal year, except that this limitation shall not apply to funds appropriated by any continuing resolution.

(b) (1) The Director of National Intelligence and the Secretary of Defense may make funds available to the Agency for the purpose of meeting emergency and extraordinary expenses of the Agency, but any funds made available to the Agency by the Secretary of Defense for such a purpose may be made available only from funds appropriated to the Secretary of Defense for the specific purpose of meeting emergency and extraordinary expenses.

(2) Any funds made available to the Agency by the Director of National Intelligence or the Secretary of Defense for meeting emergency and extraordinary expenses may be used only to meet the expenses specified by the Director of National Intelligence or the Secretary of Defense, as the case may be. The expenditure of such funds shall be

accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but such expenditures may only be for activities authorized by law. The Director shall report all expenditures made under authority of this subsection on a quarterly basis to the Committees on Appropriation of the Senate and the House of Representatives, and to all other committees of the Congress having jurisdiction over the Agency.

(c) All funds made available to the Agency, all activities of the Agency, and information relating thereto, shall be subject to financial and program management audit and review by the Comptroller General of the United States upon the request of, or with the approval of, any committee of the Congress having jurisdiction over the Agency, except that any funds expended for a particular activity, and the activity for which such funds are expended, may be exempted by the Director of National Intelligence from such audit and review if the Director of National Intelligence (1) determines such exemption to be essential to protect the security of the United States, (2) notifies the committees of the Congress having jurisdiction over the Agency of such exemption and the reasons for granting it, and (3) reports quarterly to the committees of the Congress having jurisdiction over the Agency on each activity exempted under this subsection. Any audit or review conducted by the Comptroller General of the United States under authority of this subsection shall be conducted in accordance with such security standards as the Director of National Intelligence and committee requesting or approving such audit or review shall prescribe. Information resulting from any such audit or review shall be available in the Congress only to the committees of the Congress authorized herein to request such audit or review, except as provided under section 12th of Title I of this Act.

PROTECTION OF INDIVIDUAL RIGHTS

Sec. 311. (a) In carrying out its functions under this Act the Agency--

(1) shall, in connection with foreign communications, take all practicable measures consistent with its prescribed functions to eliminate or minimize the acquisition, retention, and dissemination of communications of United States persons;

(2) may not engage in electronic surveillance as defined in chapter 120 of title 18, United States Code, unless authorized to do so in an order issued under such chapter;

(3) shall, when presented with an order obtained in accordance with chapter 120 of title 18, United States Code, and prior to undertaking any monitoring activity, notify the Director of National Intelligence, or such person or entity of the United States Government as he may designate, that such order has been presented to the Agency and that the Agency intends to undertake monitoring activity in response to its provisions;

(4) shall destroy, upon recognition, communications of United States persons acquired incidental to the collection of foreign communications, except as provided in clauses (5) and (6);

(5) shall retain intercepted foreign communications which contain references to United States persons only to the extent essential to the maintenance of appropriate technical data bases and incidental to dissemination as described in (6) below; and

(6) may not disseminate an intercepted foreign communication which identifies a United States person as a communicant or which refers to a United States person, except

(A) to the entity of the United States Government on whose behalf an order approving such

monitoring was obtained in accordance with chapter 120 of title 18, United States Code; or

(B) with the consent of such United States person; or

(C) if the identity of the United States person is deleted and replaced by a general term which does not identify the United States person in the context of the report or, when the use of a general term alone is insufficient to conceal the identity of the United States person, if portions of the intercepted foreign communication are deleted or summarized so as to conceal the identity of the United States person; or

(D) if--

(i) the communication evidences or concerns a possible threat to the physical safety of any person;

(ii) the communication is evidence that the United States person may be an agent of a foreign power as defined in chapter 120 of title 18, United States Code;

(iii) the communication is evidence that the United States person may be a target of intelligence activities of a foreign power;

(iv) the communication is evidence that a United States person is engaged in the unauthorized disclosure of properly classified national security information; or

(v) the identity of the United States person in the context of the message is significant foreign intelligence.

(b) The Director shall, before disseminating outside the Agency any report disclosing the identity of a United States person (other than one who has consented to the use and retention of his communications) review the list of proposed recipients for the dissemination to determine whether each recipient has a

requirement in the performance of its official duties for the identity of the United States person.

(c) The Director shall issue appropriate directives for implementing the provisions of subsection (a) and shall keep the Attorney General and the appropriate committees of Congress currently informed of the procedures being following in order to comply with the provisions of subsection (a); the Attorney General shall promptly notify the Director of any instance in which the Attorney General determines the Agency is violating the provisions of subsection (a); and the Director shall immediately comply with the directives of the Attorney General regarding any such violation.

(d) The Director shall report to the Attorney General and to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate and the Committees on the Judiciary of the Senate and the House of Representatives by March 15 of each year--

(1) the number of cases in which the National Security Agency has undertaken monitoring activities in response to orders obtained in accordance with chapter 120 of title 18, United States Code; and

(2) the extent to which, during the preceding calendar year, the identities of United States persons have been disclosed in disseminations outside the Agency, including a statistical summary of the number of instances in which the identity of United States persons was disclosed and under what exceptions to the rule against disclosure.

(e) All foreign intelligence activities of the Agency not subject to the order requirement of chapter 120 of title 18, United States Code, which are likely to result in the acquisition of the foreign communications of United States persons and all foreign intelligence activities of the Agency within the United States shall be reviewed annually by the Director. Such activities may continue upon certification by the Director to the Attorney General and to the committees of Congress having jurisdiction over the Agency, that, to the best of the Director's

knowledge, the activities are conducted solely for foreign intelligence purposes and there are no practical alternative means to acquire the foreign intelligence being sought that are less likely to result in the acquisition of the foreign communications of United States persons.

(f) Any application for a court order to conduct electronic surveillance is authorized if the President has, by written authorization, empowered the Attorney General to approve applications to Federal judges having jurisdiction under section 2523, title 18, United States Code, and a judge to whom an application to conduct electronic surveillance is made may grant an order, in conformity with section 2525 of such title, approving the acquisition by the Agency of the contents of foreign communications sent by or intended to be received by a particular, known United States person who is outside the United States, where the contents are acquired by intentionally targeting that United States person if--

(1) the purpose is to obtain foreign intelligence information, as defined in section 2521(b)(5) of title 18, United States Code; and

(2) the United States person is an agent of a foreign power, as defined in section 2521(b)(2)(A) of such title, United States Code, except that, for the purpose of such applications and orders, "agent of a foreign power" includes a person who resides abroad and is an officer or employee of a foreign power responsible for activities which involve foreign intelligence information, as defined in section 2521(b)(5) of such title.

DESIGNATION OF ENTITIES TO
REQUEST FOREIGN INTELLIGENCE

Sec. 312. (a) The President shall, within 30 days after the effective date of this Act, designate in writing those entities of the United States Government authorized to request and receive foreign intelligence information which has been obtained or produced by the Agency. The President shall provide a list of the entities so designated to the committees of the Congress having jurisdiction over the Agency and inform such committees of every subsequent change in such list before such change becomes effective.

(b) The Agency shall not furnish foreign intelligence information to any entity of the United States Government except an entity designated by the President under subsection (a) of this section.

(c) The Agency shall not act upon a request for foreign intelligence information unless such request is lawful and proper under the Constitution, the laws of the United States (including this title), and applicable executive directives.

OVERSIGHT AND ACCOUNTABILITY

Sec. 313. (a) Pursuant to section 535 of title 28, United States Code, and the provisions of this title, the Director shall (1) report to the Attorney General, the Director of National Intelligence, and the Intelligence Oversight Board, immediately upon discovery, any intelligence activity which constitutes or is likely to constitute a violation of any law, executive order, presidential directive, or presidential memorandum, or any evidence of possible violation of Federal law by any officer or employee of the Agency, (2) notify, in a timely manner, the committees of the Congress having jurisdiction over the Agency that the Attorney General, the Director of National Intelligence, and the Intelligence Oversight Board have been notified pursuant to this paragraph, and (3) report to the Attorney General any evidence of possible violation by any other person of any Federal law specified in guidelines issued by the Attorney General pursuant to section 123(1)(2)(D) of this Act.

(b) The Director, the General Counsel, and the Inspector General of the Agency shall be responsible for reporting to the Intelligence Oversight Board and the Director of National Intelligence any intelligence activities that come to their respective attention that raise questions of legality or propriety.

(c) It shall be the duty of the Director to keep the committees of the Congress having jurisdiction over the Agency fully and currently informed of all the Agency's activities, including any significant anticipated activities which are the responsibility of or are engaged in by the Agency, but the foregoing provision shall not constitute a condition precedent to the initiation of any such anticipated activity.

(d) The Director shall furnish any information or material in the possession, custody, or control of the Agency or in the possession, custody, or control of any person paid by the Agency whenever requested by any committee of the Congress having jurisdiction with respect to such information or material.

(e) It shall be the duty of the Director to report to the committees of the Congress having jurisdiction over the Agency, in a timely manner, any intelligence activity of the Agency or any of its employees which constitutes a violation of any right guaranteed or protected by the Constitution or laws of the United States, or which constitutes a violation of any Federal law, executive order, presidential directives, or presidential memoranda. The Director shall transmit annually to the committees of Congress having jurisdiction over the Agency a written certification that, to the best of his knowledge, the signals intelligence activities and the communications security activities of the United States have been conducted during the previous year so as not to violate any right guaranteed or protected by the Constitution or laws of the United States except for those the Director has reason to believe were not so conducted and which the Director identifies and describes for such committees.

(f) Any employee of the Agency having information on past, current, or proposed intelligence activities which appear to be violations of the Constitution or laws of the United States, or of any executive order, presidential directive, presidential memorandum, or rule or regulation of the Agency, or which appear to be improper, or in violation of Agency policy shall be required to report such information immediately to the Director, General Counsel, or Inspector General of the Agency. Whenever any such information is reported to the General Counsel or the Inspector General, such officer shall report such information to the Director. If the matter is not initially reported to the General Counsel of the Agency, he shall be notified by the Director or Inspector General. The Director shall regularly, but not less often than once a year, notify employees of the Agency of their obligation to report such information and the necessity for cooperating fully with the Intelligence Oversight Board and the Attorney General.

(g) The Inspector General and General Counsel of the Agency are authorized, in extraordinary circumstances, and if requested

to do so by an employee of the Agency providing any information to the Inspector General or General Counsel, to submit such information directly to the Attorney General, the Director of National Intelligence or the Intelligence Oversight Board, and to notify the committees of the Congress having jurisdiction over the Agency without informing the Director of such action.

(h) Nothing in this section shall prohibit any employee of the Agency from reporting any information described in subsection (f) directly to the Attorney General, the Director of National Intelligence, or the Intelligence Oversight Board, or the committees of Congress having jurisdiction over the Agency. The Attorney General shall take all steps necessary to insure that no employee who communicates such information in such a fashion shall be subject, on account of the reporting of such information to discipline through dismissal, demotion, transfer, suspension, reassignment, reprimand, admonishment, reduction-in-force, or other adverse personnel action, or the threat thereof.

(i) The Director shall insure that the General Counsel and the Inspector General have access to any information necessary to perform their duties under this title. The Director shall be required to provide to the Attorney General, the Director of National Intelligence, the Intelligence Oversight Board, and to the committees of the Congress having jurisdiction over the Agency an immediate explanation, in writing, of any instance in which the Inspector General or the General Counsel of the Agency are denied access to information, instructed not to report to the Intelligence Oversight Board on a particular activity, or are denied authority to investigate a particular activity.

(j) The Director shall submit to the committees of the Congress having jurisdiction over the Agency, at least once a year, a report which includes--

(1) a review of the signals intelligence activities and communications security activities of the United States, including all research and development in support of such activities and the relationship between the signals

intelligence activities and the signals intelligence-related activities of the United States;

(2) a summary of all Agency activities that raise questions of legality or propriety and the General Counsel's and Inspector General's findings concerning such activities;

(3) a discussion of the major legal problems facing the Agency; and

(4) recommendations for any needed legislation.

(k) It shall be the duty of the Director to maintain a complete record of all legal authorities, published regulations, and published instructions pertaining to the activities of the Agency. A complete copy of such record shall be stored in the Office of the Federal Register, National Archives and Records Service, General Services Administration, under security standards approved by the Director of National Intelligence.

(l) It shall be the duty of the Director to maintain a full and complete record pertaining to the activities of the Agency.

(m) It shall be the duty of the Director, to the maximum extent practicable and consistent with guidelines established by the Administrator of General Services, to provide for the necessary destruction of Agency records at regular periodic intervals. No record regarding the activities of the Agency may be destroyed unless the Director has given written notification to the committees of Congress having jurisdiction over the Agency at least 60 days prior to the time fixed for the destruction of such records and a description of the records proposed to be destroyed at that time.

(n) It shall be the duty of the Director to provide the committees of the Congress having jurisdiction over the Agency with a copy of all rules, regulations, procedures, and directives issued by the Director to implement the provisions of this title and to notify such committees, in a timely fashion, of any waivers of such rules, regulations, directives, or procedures, and the facts and circumstances of each such waiver.

CONFLICTS OF INTEREST

Sec. 314. The officers and employees of the Agency shall be subject to all laws, regulations, executive orders and directives relating to conflicts of interest and the misuse of information obtained in the course of their official duties, and the Director; subject to policy guidance of the Attorney General, shall issue regulations necessary to implement such laws, regulations, executive orders and directives. Notwithstanding the foregoing sentence, the Director is authorized to waive the application of any such law, regulation, executive order or directive when he deems such action necessary because of the unique function and mission of the Agency, but such a waiver may be granted by the Director in any case only with the written approval of the Attorney General and after the Director has notified the committees of the Congress having jurisdiction over the Agency that such waiver is to be made and the reasons therefor.

ACCESS TO SIGNALS INTELLIGENCE AND COMMUNICATIONS
SECURITY INFORMATION WITHIN THE NATIONAL SECURITY AGENCY

Sec. 315. The Director may authorize any employee of the Agency or any employee of any contractor, prospective contractor, licensee, or prospective licensee of the Agency, or permit any employee of a department or agency of the Government or of any contractor of any department or agency of the Government, or any member of the armed forces of the United States, or any other person designated by the Director, to have access to signals intelligence or communications security information necessary to the effective performance of any duty performed for the Agency; except that, in the case of any person not an employee of the Agency or of a contractor of the Agency, the head of the appropriate department or agency or his designee must first certify that the individual who is to have such access has been cleared in accordance with the established personnel security procedures and standards prescribed by the Director pursuant to title III of the Internal Security Act of 1950 (50 U.S.C. 831-835).

TRAVEL, RELATED EXPENSES, AND DEATH GRATUITIES
FOR CERTAIN AGENCY PERSONNAL

Sec. 316. (a) Definitions. As used in this section--

(1) the term "employees" means personnel employed by and assigned to duty with the Agency, but excludes persons working under contract and persons who when hired are resident in or citizens of the country of the duty station at which they are to be employed, unless specifically included.

(2) the term "foreign area" means all duty stations not in the United States.

(3) the term "United States" means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of the Virgin Islands, and the Canal Zone, but excluding Guam and all other territories of the United States.

(4) the term "continental United States" means the 48 contiguous States and the District of Columbia.

(b) Under such regulations as the Director of National Intelligence may prescribe, the Agency, with respect to its employees assigned to duty stations in foreign areas, or within other geographical areas when so indicated shall--

(1) pay the travel expenses of employees of the Agency, including expenses incurred while traveling pursuant to authorized home leave;

(2) pay the travel expenses of members of the family of an employee of the Agency when proceeding to or returning from his post of duty; accompanying him on authorized home leave; or otherwise traveling in accordance with authority granted pursuant to the provisions of this title or any other provision of law;

(3) pay the cost of transporting the furniture and household and personal effects of an employee of the Agency to his successive posts of duty and, on the termination of his services, to his residence at time of appointment or to a point not more distant, or, upon retirement, to the place where he will reside, but such transportation must be

completed within 12 months from the date of retirement unless the Director determines that the employee was unable, because of illness or other good cause, to make the necessary preparations for such transportation, in which case he may grant an extension of six months;

(4) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an employee of the Agency when he is absent from his post of assignment under orders, or when he is assigned to a post to which he cannot take or at which he is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by Agency regulations when such limitations are not fixed by law;

(5) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an employee of the Agency in connection with assignment or transfer to a new post, from the date of his departure from his last post or, in the case of a new employee, from the date of his departure from his place of residence, and for not to exceed 90 days after arrival at the new post or until the establishment of residence quarters, whichever is shorter; and in connection with separation of an employee of the Agency, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed 90 days, his furniture and household and personal effects; but in no instance shall the weight or volume of the effects transported exceed the maximum limitations fixed by Agency regulations when such limitations are not fixed by law;

(6) pay the travel expenses and transportation costs (including costs of the necessary temporary storage of

property) incident to the removal to any geographical location deemed a necessary safehaven by the Director, of any employee of the Agency, his family, and his furniture and household and personal effects, including any automobile, from a post at which, because of the prevalence of disturbed conditions, there is imminent danger to life and property, and the return of such persons, furniture, and effects to such post upon cessation of such conditions; or to such other post as may in the meantime have become the post to which such employee has been assigned;

(7) charge expenses in connection with travel of any employee, members of his family, and transportation of their household goods and personal effects, involving a change of permanent station, to the appropriation for the fiscal year current when any part of either the travel or transportation pertaining to the transfer begins pursuant to previously issued travel and transfer orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year or that the travel and transfer orders may have been issued during the prior fiscal year;

(8) order to the United States on home leave each employee of the Agency who was a resident of the United States at time of employment upon completion of eighteen months continuous service abroad or as soon as possible thereafter;

(9) notwithstanding the provisions of any other law, transport for or on behalf of an employee of the Agency stationed outside the continental United States, a privately owned motor vehicle in any case in which it shall be determined that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, and pay the costs of such transportation; but not more than one motor vehicle of any officer or employee of the Agency may be transported under authority of this clause during any continuous four-year period abroad, except that, as a

replacement for such motor vehicle, one additional motor vehicle of any such employee stationed in a foreign area may be so transported during such period if the Director (a) determines in advance that such replacement is necessary for reasons beyond the control of the employee and is in the interest of the Government, and (b) approves such transportation in advance;

(10) pay the cost of transporting a replacement vehicle for the motor vehicle of any employee of the Agency who has remained on continuous service in a foreign area after the expiration of a four-year period following the date transportation was last provided under this section for a motor vehicle for such employee;

(11) establish a medical or dental facility and provide for the services of medical or dental personnel at a post in a foreign area or Alaska at which sufficient personnel are employed to warrant such a facility and personnel, but only if the Director determines that it is not feasible to use an existing medical facility;

(12) in the event of illness or injury requiring the hospitalization of a full-time employee of the Agency or member of the family of such an employee of the Agency, not the result of vicious habits, intemperance, or misconduct, incurred while on assignment in a foreign area or Alaska, in a locality where there does not exist a suitable hospital or clinic, pay the travel and transportation expenses of such employee, or member of his family by whatever means the Director shall deem appropriate and without regard to the Standardized Government Travel Regulations and section 5731(a) of title 5, United States Code, to the nearest locality where a suitable hospital or clinic exists, pay a per diem for up to 30 days when such travel does not involve hospitalization, and on his recovery pay for the travel expenses of his return to his post of duty or to such other post as may in the meantime have become the post to which such employee has been reassigned; and if the employee or

member of his family is too ill or too young to travel unattended, the Director may also pay the travel expenses of an attendant or attendants;

(13) in the event of illness or injury requiring hospitalization of an employee of the Agency, not the result of vicious habits, intemperance, or misconduct on his part, incurred in the line of duty while such person is assigned to a foreign area, pay for the cost of the treatment of such illness or injury at a suitable hospital or clinic;

(14) in the event a member of the family of an employee of the Agency who is assigned outside the continental United States incurs an illness or injury while such member of the family is located outside the continental United States, which requires hospitalization or similar treatment, and which is not the result of vicious habits, intemperance, or misconduct on his part, pay for that portion of the cost of treatment of each such illness or injury that exceeds \$35 up to a maximum limitation of 120 days of treatment for each such illness or injury, except that such maximum limitation shall not apply whenever the Director, on the basis of professional medical advice, determines that such illness or injury clearly is due in substantial part to the fact that such member of the family is or has been located outside the continental United States;

(15) make payments for the costs of medical or hospital care under clauses 12, 13, and 14 above only insofar as such costs would not otherwise be payable under the terms of a health benefits plan approved by the Director available to the employees of the Agency and to which the Agency contributes under the provisions of chapter 89 of title 5, United States Code;

(16) provide the benefits under clauses (12) through (14) beyond the date of death or separation of an employee of the Agency, so long as entitlement to such benefits initially occurred prior to the death of the employee;

(17) pay the costs of periodic physical examinations of employees of the Agency and for the costs of administering inoculations or vaccinations to such employees; and pay the cost of providing the same services to the members of the family of such employees when such members accompany such employees to foreign areas where no other sufficient United States governmental medical facilities are available;

(18) pay the costs of preparing, transporting and escorting the remains of any employee of the Agency, or a member of his family who may die while in official travel status or while assigned at any duty station, and the transportation costs of dependents and household goods to his former home in the United States or a place not more distant;

(19) pay the costs of travel of any new employee of the Agency and members of such employee's family, and the transportation of their household goods and personal effects, from places of actual residence at the time of appointment, regardless of location, to places of employment, regardless of location, and, upon separation, return to their actual residences at the time of appointment or a point not more distant; but the costs of such travel and transportation shall be paid only if such new employee agrees in writing to remain in the employ of the United States Government for a period of not less than 24 months from the time such employee is sent to a duty station in a foreign area unless separated from employment for reasons beyond such employee's control which are acceptable to the Agency, and any violation of such agreement by an employee for personal convenience or because of separation for misconduct shall bar the return payment (the costs of travel and transportation to the place of employment are payable whether or not the individual selected has been appointed at the time of travel and transportation);

(20) pay the cost of the travel expenses of employees of the Agency who are United States persons and members of their families, while serving at posts specifically designated by the Director for purposes of this clause, for rest and recuperation to other locations which are designated by the Director and are no further from the duty post than is the continental United States, having different environmental conditions than those at the post at which such employees are serving; but such travel expenses shall be limited to the cost for each employee and members of his family of one round trip of less than first class during any continuous two-year tour unbroken by home leave and two round trips of less than first class during any continuous three-year tour unbroken by home leave;

(21) pay the travel expenses of any employee of the Agency for up to two round trips each year for purposes of family visitation in situations where the family of the employee is officially precluded from accompanying such employee to, or has been ordered evacuated from, his assigned post because of danger from hostile activity or other hardship conditions, as determined by the Director, except that, with respect to any such employee whose family is located in a foreign area or in a remote area of Alaska designated in regulations by the Director, the Director may authorize such additional trips as he deems appropriate not to exceed the equivalent cost of two round trips of less than first class to the District of Columbia;

(22) pay the travel expenses of employees stationed or in an official travel status in a foreign area or in Alaska (or members of employees' families who are located in a foreign area or in Alaska), for purposes of family visitation in emergency situations involving a critical illness or death involving a spouse, parent, or child (as defined in section 5101, title 5, United States Code), but the facilities of the Military Airlift Command shall be

utilized whenever possible for travel authorized under this clause;

(23) pay the travel expenses, including a per diem where appropriate, of members of the family accompanying, preceding, or following an employee if, while such employee is en route to his post of assignment, he is ordered temporarily for orientation and training or is given other temporary duty; and

(24) pay travel expenses and allowances as prescribed in section 5724 of title 5, United States Code, for employees who are assigned for training under chapter 41 of title 5, United States Code.

(c) (1) while any employee of the Agency is on leave in the United States such employee shall be available for such work or duty for the Agency as the Director may prescribe. The time devoted to such work or duty by such employee shall not be counted as leave time.

(2) Whenever an employee of the Agency returns to the United States on leave, the time actually and necessarily occupied in traveling to and from the United States (including any time actually and necessarily occupied in awaiting transportation) shall not be counted as leave time.

(d) Notwithstanding any other provision of law, the Director may grant, in addition to any other allowances authorized by law, a separate maintenance allowance to assist an employee of the Agency who is compelled, because of dangerous, notably unhealthful, or excessively adverse living conditions at his post of assignment in any foreign area or in a remote area of Alaska, or for the convenience of the Government, to meet the additional expense of maintaining, elsewhere than at the post, his spouse or other dependents, or both.

(e) The Agency may, without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 522), make advance payments for any of the purposes in this section. Any sum advanced and not used for allowable expenses is recoverable from the person to whom the advance was made or his estate or--

- (1) set-off against accrued pay, retirement credit, or other amount due such person or his estate,
 - (2) a deduction from any amount due such person from the United States, or
 - (3) such other method as is authorized by law,
- unless the Director or his designee determines that recovery of any such sum will not be in the best interests of the United States.

(f) The Agency may, when the Director shall find it to be in the best interests of the Government to do so as a means of eliminating transportation costs, provide assigned persons with basic household furnishings and equipment for use on a loan basis in personally owned or leased residences in foreign areas or in remote areas of Alaska.

(g) Under such regulations as the Director may prescribe, the Agency, with respect to its employees assigned to duty stations in the United States, may waive the applications of the provisions of sections ____ and ____ of Public Law 89-516 for certain employees when the Director deems that the official change of station involved is of such a limited duration as to warrant the waiver.

(n) Death Gratuities for Certain Agency Employees

Under such regulations as the Director may prescribe, the Agency is authorized to provide for payment of a gratuity to surviving dependents of any Agency employee who dies (or upon a finding of death under section 5565, title 5, United States Code) as a result of injuries sustained in the performance of duty in a foreign area or the Canal Zone in an amount equal to one year's salary at the time of death. A death gratuity payment shall be made under this subsection only if the survivors entitled to payment under this subsection are entitled to elect monthly compensation under section 3133, title 5, United States Code because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 3133. Any death

gratuity payment made under this subsection shall be held to have been a gift and shall be in addition to any other benefit payable from any source. A death gratuity payment under this subsection shall be made as follows: (1) first, to the widow or widower; (2) second, to the child, or children in equal shares, if there is no widow or widower; and (3) third, to the dependent parent, or dependent parents in equal shares if there is no widow, widower or child. If there is no survivor entitled to payment under this subsection, no payment shall be made. As used in this subsection, the terms "widow", "widower", "child", and "parent" shall have the same meaning given each such term under section 6101, title 5, United States Code.

(1) (1) Whenever the President determines that it would be appropriate for the purpose of maintaining conformity between provisions of law relating to travel and related expenses and death gratuities of the Foreign Service of the United States and provisions of law relating to travel and related expenses and death gratuities of employees of the Agency, he may, by Executive order, extend to Agency employees, a provision of law enacted after January 1, 1976, which:

(A) amends part B, subchapter IX, chapter 14, title 22, United States Code, or

(B) amends section 2679a, chapter 33, title 22, United States Code, or

(C) otherwise affects provisions of law relating to travel and related expenses or death gratuities of the Foreign Service.

Any such order shall extend such provision of law so that such provision applies in like manner with respect to Agency employees. Any such order shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law relating to Foreign Service personnel.

(2) Any provisions of an Executive order issued pursuant to this subsection shall modify, supersede, or

render inapplicable, as the case may be, to the extent inconsistent therewith--

(A) all provisions of law enacted prior to the effective date of the provisions of such Executive order, and

(B) any prior provision of any Executive order issued under authority of this section.

(3) An Executive order under this subsection may not become effective until 60 days after the President submits the proposed order to those committees of the Senate and House of Representatives having jurisdiction over the subject matter of the order.

COMMISSARY AND MESS SERVICES
AND RECREATION FACILITIES

Sec. 317. (a) The Director is authorized, under such regulations as he may prescribe, to establish and maintain emergency commissary and mess services in such places abroad and in Alaska where, in his judgment, such services are necessary to insure the effective and efficient performance of the duties and responsibilities of the Agency, but only if such services are not otherwise available from other departments and agencies of the Government. An amount equal to the amount expended for any such services shall be covered into the Treasury as miscellaneous receipts.

(b) The Director is also authorized, under such regulations as he may prescribe, to authorize and assist in the establishment, maintenance, and operation, by officers and employees of the Agency, of non-Government operated commissary and mess services and recreation facilities at certain posts abroad, including the furnishing of space, utilities, and properties owned or leased by the United States for use by the Agency. Commissary and mess services and recreation facilities established pursuant to this subsection shall be made available, insofar as practicable, to officers and employees of other Government agencies and their families who are stationed abroad or in Alaska. Such services and facilities shall not be established in localities where another department or agency operates similar services or facilities unless the Director determines that such additional services or facilities are necessary.

(c) Notwithstanding any other provision of law, charges at any post abroad or in Alaska by a commissary or mess service or recreation facility authorized or assisted under this section shall be at the same rate for all civilian and military personnel of the Government serviced thereby, and all charges for supplies furnished to such a facility abroad or in Alaska by any department or agency shall be at the same rate as that charged by the furnishing department or agency to its civilian or military commissary or mess services or recreation facilities.

PRINTING AND BINDING

Sec. 312. The Director is authorized to operate a full scale printing plant, as defined by the Joint Committee on Printing of the Congress of the United States, for the production of cryptologic and cryptologic-related materials, subject to the rules of the Joint Committee on Printing of the Congress.

EDUCATION AND TRAINING

Sec. 319. The Director is authorized to establish and insure compliance with standards for training necessary to accomplish the cryptologic missions of the Government and to arrange for, fund, or provide training as may be necessary to accomplish the cryptologic mission of the Government. The provisions of chapter 41 of title 5, United States Code, shall be applicable in the conduct of such training. Notwithstanding the foregoing sentence, the Director is authorized to waive the application of any or all such provisions when he deems such action necessary because of the unique mission and function of the Agency, but such waiver may be granted by the Director in any case only if the Director promptly notifies the committees of the Congress having jurisdiction over the Agency of the waiver and the reasons for it.

RETIREMENT SYSTEM

Sec. 320. Employees of the Agency shall participate in the regular Federal civil service retirement system provided for under subchapter III of chapter 83 of title 5, United States Code, except that the Director is authorized to designate a limited number of employees whose duties either are in support of Agency activities abroad, hazardous to life or health, or so specialized as to be clearly distinguishable from normal government employment, for participation in a separate retirement and disability program which may hereafter be authorized by law.

PATENTS AND INVENTIONS

(Included for discussion purposes. Will be presented as an amendment to chapter 17 of title 35.)

Sec. 321. Patents and inventions useful in the provision of security, confidentiality, or privacy of communications or other forms of transmission of data, or incorporating sensitive cryptologic techniques, which in the opinion of the Director, if published, might be detrimental to the national security, shall be handled in accordance with the provisions of chapter 17 of title 35, United States Code, and the Director may separately issue rules or regulations pursuant to section 168 of chapter 17 of title 35, United States Code.

*CLASSIFICATION AND DECLASSIFICATION OF
SIGNALS INTELLIGENCE AND
COMMUNICATIONS SECURITY INFORMATION
(included for discussion purposes)

Sec. 322. (a) The Director, based upon policy guidance of the Director of National Intelligence, shall establish classification and declassification criteria for information relating to signals intelligence activities, communications security activities, the organization, functions, budgets, personnel, missions, and activities of the Agency and related organizations, and the signals intelligence activities and communications security activities of the military departments, in order that there will be no disclosure to any unauthorized person of any signals intelligence or communications security information--

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government;

(2) concerning the plan, design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or planned for use by the United States or any foreign government for communications security or signals intelligence purposes;

(3) concerning the signals intelligence or communications security activities of the United States or any foreign government; or

(4) obtained by the processes of signals intelligence from foreign communications.

(b) (1) Signals intelligence and communications security information shall not be subject to other laws and regulations relating to the declassification and or release to the public or archives of records relating to such information.

(2) Except when authorized by law, by the President, the Director of National Intelligence, or the Director, no information classified in accordance with the criteria prescribed pursuant to subsection (a) shall be declassified

until the expiration of 30 years after its original classification.

(3) The Director shall establish guidelines by which such information may be declassified and removed from the categories of signals intelligence or communications security information without undue risk to the national defense or to the foreign relations of the United States or any government that cooperates with the United States.

(4) In order to be responsive to the needs of the people of the United States for information on the activities of their Government, both prior to and subsequent to the expiration of the 30-year period referred to in paragraph (2), the Director shall maintain a continuous review of the information classified pursuant to such guidelines in order to make available to the public such signals intelligence and communications security information as can be made available without undue risk to the national defense or foreign relations of the United States or any government that cooperates with the United States or to sources and methods by which such information was acquired.

(c) The Director shall report annually to the committees of the Congress having jurisdiction over the Agency and shall include in such report a description of the classification and declassification criteria established pursuant to subsection (a), including any changes therein, and a discussion of his efforts to make publicly available, without undue risk to the national defense or foreign relations of the United States or any country which cooperates with the United States, or to sources and methods by which such information was acquired, signals intelligence and communications security information.

(d) In the case of any signals intelligence or communications security information which the Director and the Director of National Intelligence jointly determine relate primarily to intelligence sources and methods, any determination that such information may be declassified and released without constituting an unreasonable risk to the national defense,

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foreign relations, or intelligence sources and methods of the United States or any other country which cooperates with the United States shall be made by the Director of National Intelligence.

(e) In the case of any signals intelligence or communications security information which the Director and the Secretary of State jointly determine relates primarily to the foreign relations of the United States or any other country, any determination whether such information can be declassified and released without constituting an unreasonable risk to the foreign relations of the United States or any other country which cooperates with the United States shall be made by the Director and the Secretary of State jointly, except that if the Director and the Secretary of State cannot agree, the dispute shall be referred to the President for decision.

(f) In the case of any signals intelligence or communications security information which the Attorney General determines is required for use in a prosecution for a violation of Federal law, any determination whether such information can be declassified and released without constituting an unreasonable risk to the national defense or foreign relations of the United States shall be made by the Director and the Attorney General jointly, except that if the Director and the Attorney General cannot agree, the dispute shall be referred to the President for decision.

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TEST AND EVALUATION

Sec. 323. Section 2511 of title 18, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) It shall not be unlawful under this chapter or section 605 of the Communications Act of 1934 (47 U.S.C. 605) for any officer, employee, or agent of the Federal Communications Commission, in response to a written request from the Director of the National Security Agency or his designee to intercept communications transmitted by radio which are protected by confidentiality devices and to disclose such communications to the National Security Agency. Such intercepts shall be requested solely for the purpose of determining the vulnerability of the protection provided such communications; and the contents of such communications or the identity of communicants shall not be retained or disclosed. The National Security Agency may retain records of interceptions containing unusual or unexplained signals if any content unrelated to such signals which may be reasonably segregated and deleted is deleted, and may retain records and the identity of a provider of confidentiality services where that information is necessary to prevent vulnerability to compromise of confidentiality services due to inadequate procedures or defective equipment.

"(f) It shall not be unlawful under this chapter or section 605 of the Communications Act of 1934 (47 U.S.C. 605) for an officer, employee, or agent of the National Security Agency to intercept radio communications within the United States for the sole purpose of determining the capability of equipment used to obtain foreign intelligence, equipment used to provide security or confidentiality of communications, or the existence or capability of equipment used by a foreign power or its agents. In any case in which an officer, employee, or agent of the National Security Agency intercepts any such radio communication (1) the test period shall be limited in extent and duration to that necessary to determine the capability of the equipment, (2) the content of any communication acquired shall be retained and

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used solely for the purpose of determining the existence or capability of such equipment, shall be disclosed only to the officers conducting the test, and shall be destroyed upon the completion of the testing, and (3) no test other than periodic special equipment calibrating tests may exceed ninety days except with the prior approval of the Attorney General."

MISCELLANEOUS PROVISIONS

Sec. 324. (a) In exercising control over all signals intelligence intercept and processing activities of the United States, the Director shall make special provision for the delegation of limited control of specified signal intelligence facilities and resources required to provide signals intelligence close support to military commanders or the heads of other departments and agencies of the Government. Such special provision shall be made in any case for such period and for such activities as the Director determines to be appropriate. The Director shall also enter into arrangements with any department or agency not part of the United States SIGINT system which is capable of producing signals intelligence when such arrangements are appropriate to assist the Director in fulfilling his responsibilities under this title and when such arrangements will not substantially interfere with the principal missions and functions of such department or agency.

(b) Nothing in this title shall contravene the responsibilities of any department or agency for the final evaluation of signals intelligence information, its synthesis with information from other sources, and the dissemination of finished intelligence to users in accordance with prescribed security procedures.

(c) Nothing in this title shall contravene separately authorized functions of any department or agency to organize and conduct individual communications security activities other than the development of cryptographic systems, devices, equipment and procedures. Each department and agency concerned shall be responsible for implementing all measures required to assure communications security in accordance with doctrines, standards and procedures prescribed by the Director.

(d) Nothing in this title shall contravene the authority of the Central Intelligence Agency to prescribe unique communications security and signals intelligence methods and procedures, as approved by the Director of National Intelligence after review by the Director, for the performance of clandestine

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collection and counterintelligence activities of the Central Intelligence Agency authorized by this Act.

TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS

Sec. 325. (a) All personnel employed by the National Security Agency, as in effect on the day before the effective date of this title, and all obligations, contracts, properties, and records employed, held, or used primarily in connection with any function to be performed by the Agency under this title, are transferred to the Director.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have become effective in the exercise of functions transferred under this title and which are in effect on the day before the effective date of this title, shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Director, by any court of competent jurisdiction, or by operation of law.

(c) The provisions of this title shall not affect any proceedings pending before the National Security Agency as in effect prior to the effective date of this title.

(d) No suit, action, or other proceeding begun by or against any officer in his official capacity in the National Security Agency, as in effect prior to the effective date of this title, shall abate by reason of enactment of this title.

(e) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any department, agency, office, or part thereof shall be deemed to refer to the department, agency, or office in which such function is vested pursuant to this title.

EFFECTIVE DATE

Sec. 326. This title shall become effective the first day of the third calendar month following the month in which it is enacted.